



BILLING CODE: 4410-09-P

**DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**James E. Ranochak, M.D.
Decision and Order**

On September 11, 2017, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration, issued an Order to Show Cause to James E. Ranochak, M.D. (hereinafter, Registrant), of Fort Wayne, Indiana. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration No. AR1591913, on the ground that he "do[es] not have authority to handle controlled substances in . . . Indiana, the [S]tate in which [he is] registered with the" Agency. GX 2, at 1(citing 21 U.S.C. §§ 823(f) and 824(a)(3)).

As to the jurisdictional basis of the proceeding, the Show Cause Order alleged that Registrant is registered "as a practitioner in Schedules II [through] V," under the above registration number, at the location of 3488-B Stellhorn Road, Fort Wayne, Indiana. *Id.* The Order further alleged that this registration does not expire until April 30, 2020. *Id.*

As to the substantive ground for the proceeding, the Show Cause Order alleged that "[o]n August 8, 2017, the Indiana Medical Licensing Board summarily suspended [Registrant's] medical license for 90 days, effective July 27, 2017" and "[t]his order remains in effect." *Id.* The Order thus alleged that Registrant is "without authority to handle controlled substances in the State . . . in which [he is] registered." *Id.* The Order then asserted that Registrant is "required to possess authority from a state in order to obtain or retain a DEA registration," and that "[c]onsequently, . . . DEA must revoke" his registration. *Id.* at 2 (citations omitted).

The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedure

for electing either option, and the consequence of failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Order also notified Registrant of his right to submit a corrective action plan in accordance with 21 U.S.C. § 824(c)(2)(C). *Id.* at 2-3.

On September 14, 2017, a DEA Diversion Investigator went to Registrant's home address and personally served the Show Cause Order on Registrant. GX 3, at 2 (affidavit of DI). Moreover, in its Request for Final Agency Action which it submitted on November 9, 2017, the Government represents that since the date of service of the Show Cause Order, Registrant has not requested a hearing, nor submitted a written statement or a corrective action plan. Based on the DI's affidavit and the Government's representation, I find that more than 30 days have now passed since the date of service of the Show Cause Order and that Registrant has neither requested a hearing nor submitted a written statement or corrective action plan. I therefore find that Registrant has waived his right to request a hearing or submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government ¹and matters of which I take official notice. 21 CFR 1301.43(d)-(e). I make the following findings.

FINDINGS OF FACT

Registrant is the holder of DEA Certificate of Registration No. AR1591913, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 3488-B Stellhorn Road, Fort Wayne, Indiana. GX 1. This registration does not expire until April 30, 2020. *Id.*

Registrant is also the holder of medical license No.01026732A issued by the Medical Licensing Board of Indiana (hereinafter, the Board). GX 3A (Order Granting Summary Suspension), at 1. However, on June 22, 2017, Registrant was indicted in the United States

¹ On January 12, 2018, the Government submitted a Supplement to its Request for Final Agency Action which contained an additional exhibit, this being a December 20, 2017 Order of the Medical Licensing Board.

District Court for the Northern District of Indiana on 10 counts of Conspiracy to Commit Healthcare Fraud and Distributing a Controlled Substance. *Id.* at 2. Based on the indictment, on July 27, 2017, the Board summarily suspended Registrant’s medical license for 90 days. *Id.* On December 7, 2017, the Board extended the suspension for an additional 90 days. *See* GX 4, at 3 (Order Granting Summary Suspension Extension, at 2 (Dec. 20, 2017)). Also, according to the Board’s website (of which I take official notice),² the suspension remains in effect as of the date of this Decision an Order; the website also reflects that Registrant’s CSR-Physician License Nos. 01026732B and 01026732C have both expired.

DISCUSSION

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA), “upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining *and maintaining* a practitioner’s registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton*, 43 FR 27616 (1978).

The Agency’s rule derives from the text of two other provisions of the CSA: section 802(21), which defines the term “practitioner,” and section 823(f), which sets forth the registration requirements applicable to practitioners. Notably, in section 802(21), Congress defined “the term ‘practitioner’ [to] mean[] a . . . physician . . . or other person licensed,

² *See* 5 U.S.C. § 556(e).

registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. § 802(21). The text of this provision makes clear that a physician is not a practitioner within the meaning of the CSA if he is not “licensed, registered or otherwise permitted, by the jurisdiction in which he practices . . . to dispense [or] administer . . . a controlled substance in the course of professional practice.” *Id.*

To the same effect, Congress, in setting the requirements for obtaining a practitioner’s registration, directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. § 823(f). Thus, based on these provisions, the Agency held nearly forty years ago that “[s]tate authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance *and maintenance* of a Federal controlled substances registration.” *Blanton*, 43 FR at 27617 (revoking physician’s registration based on one-year suspension of his state license) (emphasis added).

Here, based on the Summary Suspension Order of Registrant’s medical license as well as the information that both of Registrant’s state controlled substance licenses have expired, I find that Registrant is currently without authority to dispense controlled substances in Indiana, the State in which he is registered with DEA. *See* Ind. Code § 35-48-3-3(b) (“Every person who dispenses . . . any controlled substance within Indiana must have a registration issued by the [pharmacy] board in accordance with its rules.”); *see also* Ind. Code § 25-22.5-1-1.1(a)(1)(B) (the “[p]ractice of medicine” includes the “prescription or administration of any form of treatment, without limitation”); *id.* § 25-22.5-1-1(g) (defining “[p]hysician” to “mean any person . . . who holds [a] valid unlimited license to practice medicine” in the state); *id.* § 25-22.5-8-1

(“It is unlawful for any person to practice medicine . . . in this state without holding a license or permit to do so, as provided in this article.”).

Moreover, because “the controlling question” in a proceeding brought under 21 U.S.C. § 824(a)(3) is whether the holder of a DEA registration “is currently authorized to handle controlled substances in the [S]tate,” *Hooper*, 76 FR at 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State’s use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy*, 72 FR 18273, 18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Indiana Board has employed summary process in suspending Registrant’s state license. What is consequential is that Registrant is no longer currently authorized to dispense controlled substances in Indiana, the State in which he is registered. I will therefore order that his registration be revoked.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. § 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AR1591913, issued to James E. Ranochak, M.D., be, and it hereby is, revoked. This Order is effective immediately.³

Dated: February 6, 2018.

Robert W. Patterson,
Acting Administrator.

³ For the same reasons that led the Indiana Board to summarily suspend Registrant’s medical license (his indictment in federal district court on 10 counts of Conspiracy to Commit Health Care Fraud and Distributing a Controlled Substance), I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

